

105TH CONGRESS
2D SESSION

H. R. 3548

To establish a Fund for Environmental Priorities to be funded by a portion of the consumer savings resulting from retail electricity choice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 1998

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a Fund for Environmental Priorities to be funded by a portion of the consumer savings resulting from retail electricity choice, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Environmental Prior-

5 ities Act of 1998”.

1 **SEC. 2. RECAPTURE OF SAVINGS FROM RETAIL ELEC-**
2 **TRICITY COMPETITION.**

3 (a) **EFFECTIVE DATE.**—This Act shall take effect for
4 a consumer sector in any State on January 1 of the first
5 year after all State regulated electric utilities and all non-
6 regulated electric utilities in that State have been deter-
7 mined by the Secretary of Energy to have established re-
8 tail electric service choice for customers in that sector, but
9 not earlier than January 1, 2001. The Secretary shall an-
10 nually review the laws and regulations of each State relat-
11 ing to retail electric service regulation and make such de-
12 terminations on January 1, 2001, and January 1 of each
13 year thereafter.

14 (b) **10 PERCENT OF CONSUMER SAVINGS.**—For each
15 State, on December 31 of the first full calendar year fol-
16 lowing the effective date of this Act for any consumer sec-
17 tor in the State, and on December 31 of each subsequent
18 calendar year, each provider of retail electric services in
19 the State shall contribute to the fiscal agent for the Envi-
20 ronmental Priorities Board established under section 2 an
21 amount equal to 10 percent of the total consumer savings
22 for that sector for that calendar year.

23 (c) **DEFINITIONS.**—For purposes of this section:

24 (1) **CONSUMER SAVINGS.**—For any provider of
25 retail electric services in a State, for any consumer
26 sector in the State, the term “consumer savings”

1 means, for any calendar year, the amount (if any)
2 by which the potential rate for electric energy pro-
3 vided by that provider to that sector exceeds the cur-
4 rent rate for that sector, multiplied by that sector's
5 total consumption (in kilowatt-hours) during that
6 calendar year.

7 (2) CURRENT RATE.—For any provider of retail
8 electric services in a State, for any consumer sector
9 in the State, the term “current rate” means, for the
10 12 months following the effective date of this Act for
11 that sector in that State, the average kilowatt-hour
12 rate paid by customers of the provider in that con-
13 sumer sector in that State, as calculated by the pro-
14 vider and recalculated annually.

15 (3) POTENTIAL RATE.—

16 (A) GENERAL RULE.—For any provider of
17 retail electric services in a State, for any con-
18 sumer sector in the State, the term “potential
19 rate” means, for each calendar year following
20 the effective date of this Act for that sector in
21 that State, the average kilowatt-hour rate paid
22 by the provider's customers in that sector dur-
23 ing the 12-month period preceding the date on
24 which retail electric service choice for customers
25 in that sector was established, adjusted for in-

1 flation. The adjustment for inflation shall be
2 made using a methodology to be determined by
3 the Secretary of Energy. The Secretary of En-
4 ergy shall recalculate the potential rate annu-
5 ally to adjust it for inflation.

6 (B) SPECIAL RULES.—For all sectors not
7 serviced by the provider during any period, the
8 average kilowatt-hour rate for that sector shall
9 be estimated or measured by the Secretary of
10 Energy. In any case where retail choice in a
11 State or sector did not all occur on one effective
12 date but was phased-in over time, the Secretary
13 of Energy shall establish regulations to fairly
14 establish the potential rate. In any cases where,
15 for the 12-month period preceding the date on
16 which retail electric service choice for customers
17 in that sector was established, a provider served
18 a sector in the State but did not serve it for the
19 full period, the Secretary of Energy shall estab-
20 lish regulations to fairly establish the potential
21 rate.

22 **SEC. 3. USE OF CONTRIBUTIONS FOR ENVIRONMENTAL**
23 **PRIORITIES.**

24 (a) NATIONAL ENVIRONMENTAL PRIORITIES
25 BOARD.—The Administrator of the Environmental Pro-

1 tection Agency (hereinafter in this section referred to as
2 the “Administrator”) shall establish a National Environ-
3 mental Priorities Board to carry out the functions and re-
4 sponsibilities specified in this section. The Board shall be
5 composed of 3 persons who are officers or employees of
6 the United States, and 4 State commissioners nominated
7 by the national organization of the State commissions and
8 appointed by the Administrator. The Administrator shall
9 appoint one member of the Board to serve as Chairman.

10 (b) RULES.—Within 180 days after the enactment of
11 this Act, the Administrator shall promulgate a final rule
12 containing the rules and procedures of the Board, includ-
13 ing the rules and procedures for selecting a non-Federal
14 fiscal agent under subsection (e). The Administrator shall
15 have oversight responsibilities over the Board.

16 (c) ENVIRONMENTAL PRIORITIES PROGRAM.—(1)
17 Within 90 days after the promulgation of the Administra-
18 tor’s rules under subsection (b), the Board shall institute
19 a proceeding to establish regulations governing creation
20 and administration of a Environmental Priorities Pro-
21 gram. Such regulations shall include criteria and methods
22 of selecting State projects to receive support under the
23 Program. Such support may include direct loans, loan
24 guarantees, grants, capitalization grants for State revolv-

1 ing funds, and other assistance. The State projects may
2 include—

3 (A) lowering borrowing costs for municipal and
4 regional governments constructing wastewater treat-
5 ment plants;

6 (B) increasing the use of filter strips and ripar-
7 ian buffers in protecting rivers and streams;

8 (C) mitigating the deleterious effect of elec-
9 tricity production on air quality;

10 (D) supporting the preservation of open space
11 for resource conservation, wildlife protection, or
12 recreation; and

13 (E) such other projects furthering national en-
14 vironmental priorities as may be established by the
15 Board.

16 (2) The Board shall enter into arrangements with a
17 non-Federal fiscal agent who shall be authorized to receive
18 the contributions made under section 2(b) and to disburse
19 such contributions as provided in subsection (d).

20 (3) Any State in which retail electric service choice
21 has been established for any consumer sector may estab-
22 lish one or more public purpose programs and apply for
23 matching funding under this section for projects to be
24 funded under such program. A participating State may
25 use matching funds received under this section only to

1 support one or more eligible environmental priorities pro-
2 grams meeting the selection criteria established under
3 paragraph (1). The Board shall regularly audit the ex-
4 penditures of matching funds received by a participating
5 State under this section.

6 (4) At no time shall a State be required, pursuant
7 to this section, to participate in the Environmental Prior-
8 ities Program, nor may a State be required by the Board
9 to fund a particular project.

10 (d) FUND FOR ENVIRONMENTAL PRIORITIES.—(1)
11 The fiscal agent shall distribute contributions received by
12 the fiscal agent under section 2(b) to States (or entities
13 designated by the States) under this subsection in accord-
14 ance with the criteria established by the Board under sub-
15 section (c) to carry out eligible projects under environ-
16 mental priorities programs established by the States. For
17 each calendar year after the year 2001, the Board shall
18 solicit applications from States for matching funds to
19 carry out eligible environmental priorities programs. The
20 applications for assistance during any calendar year must
21 be received by the Board before the commencement of
22 such year. In its application, the State shall certify that
23 the moneys will be used for one or more eligible public
24 purpose programs and shall specify the amount of State

1 support which is projected for the coming calendar year
2 for the programs concerned.

3 (2) Upon receipt of all State requests for matching
4 funds submitted pursuant to paragraph (1) for any cal-
5 endar year, the Board shall calculate the funds necessary
6 to match the level of projected States funds for eligible
7 environmental priorities programs for that calendar year.

8 (3) Following the calculation of the amount of match-
9 ing funds required under paragraph (2) for all States re-
10 questing funds for any calendar year, the Board shall com-
11 municate that amount to the fiscal agent. Expenditures
12 by the fiscal agent for any calendar year may not exceed
13 the total balance. To the extent the matching funds re-
14 quested by all such States for a calendar year exceed the
15 total amount received by the fiscal agent during the prior
16 calendar year and available to the fiscal agent at the com-
17 mencement of the calendar year concerned, the matching
18 funds distributed to each such State shall be reduced pro
19 rata so that the percentage of State funds matched by
20 funds provided under this section is the same for all States
21 requesting funds.

22 (4) The fiscal agent shall distribute matching funds
23 to the States (or to an entity or entities designated by
24 the State to receive payments) to be used for eligible envi-
25 ronmental priorities programs designated under sub-

1 section (c). All funds received shall be used only for the
2 eligible environmental priorities programs designated by
3 the State.

